

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

November 22, 2010

Les Trobman, General Counsel
Texas Commission on Environmental Quality
PO Box 13087
Austin Texas 78711-3087

VIA FACSIMILE 512/239-5533

**Re: SOAH Docket No. 582-09-6185; TCEQ Docket No. 2009-1093-AIR; Re:
Application by Tenaska Trailblazer Partners, LLC for Air Permit Nos.
84167, HAP13, and PSD-TX-1123.**

Dear Mr. Trobman:

On October 21, 2010, the parties to this proceeding filed exceptions to the Proposal for Decision (PFD) issued on October 1, 2010. In its exceptions, Tenaska Trailblazer Partners, LLC (Tenaska) included Attachment C, which contained suggested changes to the findings of fact (FOF) and conclusions of law (COL) in the Proposed Order. On November 1, 2010, the parties filed their responses to exceptions. This letter sets forth changes recommended by the Administrative Law Judges (ALJs) in response to the parties' exceptions and replies based on the evidentiary record and applicable law. Regarding any issues that were raised by the parties in their exceptions or replies but are not addressed by the ALJs in this letter, the ALJs do not recommend any changes to the originally filed PFD or proposed order.

The ALJs further note that, because the Commission's 2002 Order in Mirant Parker LLC was raised for the first time by Tenaska in its exceptions, it was not addressed in the PFD. However, for the reasons indicated by Sierra Club in its Replies to Exceptions and pursuant to 1 TEX. ADMIN. CODE § 155.419, the ALJs do not find that the Mirant Order establishes a current policy that is applicable or should be applied to this case.

Proposed Changes to PFD

The references to a VOC limit of 0.024 lb/MMBtu on pages 41, 67, and 80, should be changed to reflect a limit of 0.0024 lb/MMBtu.

Proposed Changes to Findings of Fact

The ALJs recommend that the following Findings of Fact in their Proposed Order be changed as indicated below:

79. The Plant Washington permit contains a MACT mercury limit of 7.64×10^{-6} lb/MWhr (gross) on a 12-month rolling average while burning the same PRB subbituminous coal that Tenaska will use.
86. Based on the evidence in the record, the mercury emissions limit that represents MACT for Trailblazer is 7.64×10^{-6} lb/MWhr.
87. Trailblazer will use a fabric filter baghouse, which is capable of achieving emissions reductions of 99.9% for filterable PM.
89. Tenaska properly used filterable PM as a surrogate for non-mercury metallic HAPs in its MACT analysis for the Trailblazer main boiler.
99. The MACT limit for filterable PM as a surrogate for non-mercury metallic HAPs is 0.010 lb/MMBtu over a 12-month rolling average.
111. Although dry FGD can provide better control for HF than wet FGD, Tenaska's use of wet FGD was appropriate based on its ability to better control SO₂ emissions as well as its effectiveness in removing a form of water-soluble mercury.
114. In the Draft Permit, the ED recommended 0.00054 lb/MMBtu as the MACT limit for HF, and 0.00063 lb/MMBtu as the BTF MACT limit for HCl.
123. The Commission issued a permit for NRG with a CO limit as a surrogate for organic HAPs of 0.12 lb/MMBtu.
125. EPA has not proposed an emission standard for organic HAPs from coal-fired boilers such as the one proposed for Trailblazer.
130. The Trailblazer MACT limit for CO as a surrogate for organic HAPs is 0.10 lb/MMBtu over 30-day and 12-month averaging periods.
142. With respect to material transfer and storage operations at the Trailblazer Plant, enclosures and fabric filters will be used and where they are infeasible, suppressants will be used as necessary to maintain compliance with all TCEQ rules and regulations as stated in Special Condition 19.
144. For the cooling tower, low dissolved solids in the cooling water and drift eliminator technology will be utilized for control of PM/PM₁₀ emissions.

178. Plant Washington's issued permit limits for CO of 0.010 lb/MMBtu over 30-day rolling and annual averaging times are achievable for Trailblazer in the absence of any evidence in the record to indicate that they are not achievable.
191. A total emission limit of 0.018 lb/MMBtu on annual intervals for total PM/PM₁₀ is achievable for Tenaska and represents BACT for the main boiler.
198. Utilization of best management practice to meet an emission limit of 10ppm based on a 3-hour average is BACT for NH₃ emissions from the main boiler.
208. Main boiler stack testing should be required under all normal operating conditions, including operation both with, and without, CO₂ capture.
370. The MAERT Table should be revised as necessary to comply with all emission limits in this Order.

Proposed Additional Findings of Fact

The ALJs recommend that the following Findings of Fact be added to the Proposed Order:

- A filterable PM limit of 0.0022 lb/MMBtu along with use of natural gas as fuel and good combustion practices are MACT for emissions of non-mercury metal HAPs from the auxiliary boiler.
- Use of good combustion practice and use of natural gas as a fuel to meet a CO emission limit of 0.04 lb/MMBtu is the MACT surrogate for emissions of organic HAPs from the Trailblazer auxiliary boiler.
- CFBs and PCs, regardless of fuel type, are similar sources as Trailblazer for purposes of BACT analysis of filterable PM.
- Utilization of advanced fabric filter baghouse technology is the best available control technology to control total and filterable PM/PM₁₀.

Proposed Deletion to Findings of Fact

The ALJs recommend that the Finding of Fact No. 135 be deleted.

Proposed Change to Conclusions of Law

The ALJs recommend that the following Conclusions of Law be changed as indicated below:

41. Trailblazer is a major source because it is one of the 28 named source categories listed in 40 CFR § 52.21(b)(1) and emits more than 100 tpy of any single criteria pollutant in an attainment or unclassified area for all criteria pollutants.

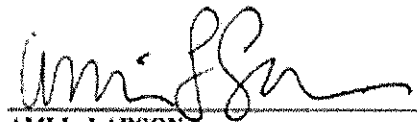
Proposed Additional Conclusion of Law

The ALJs recommend that the following Conclusion of Law be added to the Proposed Order:

- Trailblazer will comply with revisions to the Primary National Ambient Air Quality Standards for SO₂, as established in 75 *Fed. Reg.* 35520 (June 22, 2010).

If changes are made to the proposed order, the FOFs and COLs should be re-numbered as appropriate. Thank you for your thoughtful consideration of this matter.

Sincerely,



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ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



SARAH G. RAMOS
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STYLE/CASE: TENASKA TRAILBLAZER PARTNERS, LLC
SOAH DOCKET NUMBER: 582-09-6185
REFERRING AGENCY CASE: 2009-1093-AIR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ AMI LARSON**

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